



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/627,912

07/25/2003

Igor V. Lisitsyn

133919

3467

27885

7590

11/02/2005

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER

PATEL, ASHOK

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,912

Applicant(s)

LISITSYN, IGOR V.

Examiner

Ashok Patel

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 13-21 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 072503.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2879

1. Applicant's election without traverse of Group I, claims 1-12, 22 and 23, in the reply filed on 08/12/2005 is acknowledged. Claims 13-21 and 24 are withdrawn from consideration as being non-elected claims. Applicant is advised to present claims 22 and 23 each in a form so as to include all limitations of base claim 13.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Aicher (USPN 2,306,925, of record).

Aicher disclose applicant's claimed discharge lamp (Figure 14) including: an envelope (L); a discharge-sustaining fill sealed inside the envelope, first and second electrodes (31, 32) for providing a discharge, at least the first electrode including a current carrying wire (20, all of Figures 1-16) and a coil (22) including at least first and second coiled structures (see Figure 3); the first coiled structure formed by winding an overwind wire around a first cylindrical member (see Figure 6 for example), the second coiled structure formed by

Art Unit: 2879

winding the first coiled structure around a second cylindrical member (see Figure 2 for example), the second coiled structure having a coil density of at least 95% (page 4, a sentence bridging left and right columns), and an emitter material deposited on the coil (page 4, right column lines 30-38).

As to claims 2 and 3, Aicher discloses the second coil density in the amount of 125%, satisfying applicant's claimed range of about 100% and over 100%.

As to claim 4, Aicher discloses the second coil structure having 115 turns (page 5, left column, lines 46-52) at least 80 turns.

As to claims 5 and 6, Aicher discloses the first coil structure having 530 turns (page. 4, left column, lines 55-62) or 400 turns (page 5, left column, lines 46-52) satisfying applicant's claimed range of at least 200 turns per inch and about 300 turns per inch.

As to claim 7, Aicher discloses the coil further including a third coiled structure (Figure 3) formed by winding the second coiled structure (page 3, right column, lines 53-55).

As to claim 22, Aicher disclose the coil as mentioned in the rejection of claim 1. As to claim 22, applicant is claiming the coil structure made by a process recited in a base claim 13, which renders the claim of a product-by-process nature. The

Art Unit: 2879

process limitations of claim 22 (by way of incorporating all process limitations of the base claim 13) are not given a patentable weight. Even though product-by-process claim is limited by process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." MPEP 2113.

Accordingly, no patentable weight is given to process steps recited in claim 22.

As to claim 23, Aicher disclose the lamp, as mentioned in the rejection of claim 1 as a fluorescent lamp (page 1, left columns first paragraph). As mentioned in the rejection of claim 22, patentable weight is not given to process steps recited in claim 23.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

Art Unit: 2879

art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aicher, as applied to claim 1.

As to claims 8 and 9, although Aicher does not disclose a diameter of the third coil, it would have been obvious to one of ordinary skill in the art to select suitable dimension of the coil and mandrel so as to optimize diameter of the third coil, since it has been held that where general conditions of the claim are discovered in the prior art, discovering the optimum or workable range involves only routine skill in the art. In re Aller, 105 USPQ 233.

As to claim 10, although Aicher does not disclose length of the coil, it would have been obvious to one of ordinary skill in the art to select suitable length of the coil to optimize dimension of the coil, since it has been held that where general conditions of the claim are discovered in the prior art,

Art Unit: 2879

discovering the optimum or workable range involves only routine skill in the art. In re Aller, 105 USPQ 233.

As to claims 11 and 12, although Aicher does not disclose the emitter material as claimed by applicant, the use of applicant's claimed material (barium, strontium, calcium, zirconium and their combinations) is old and well known to those skilled in the art for emitting electron during operation. In light of this, Aicher would have suggested to select any of these well-known activating materials suitably for emitting electrons from the electrodes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

Art Unit: 2879

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ashok Patel
Primary Examiner
Art Unit 2879